



January 8, 2016

Honorable Charles R. Breyer  
United States District Court  
450 Golden Gate Avenue  
Courtroom 6 – 17th Floor  
San Francisco, CA 94102

**Re: Application for Plaintiffs' Leadership Position in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB**

Dear Judge Breyer:

The law firm of **Colson Hicks Eidson** ("CHE") respectfully submits this application of **Lewis "Mike" Eidson** for a Lead Counsel or Plaintiffs' Steering Committee ("PSC") position. Mike Eidson's career and experience show that he is well-suited for precisely this type of MDL – an automotive products liability MDL that is going to require immediate attention and cooperation with other plaintiffs' counsel.

**(1) Professional Experience in this Type of Litigation:** Eidson has been practicing law for nearly 40 years and has been described as a "great products defect lawyer" and "[l]ong considered one of the innovators in the field of product liability law." (CHAMBERS & PARTNERS: USA (2014 ed.)). Eidson and CHE have particular experience in precisely this type of MDL litigation. Most notably, Eidson served as Co-lead Counsel (2000-2004) and then Lead Counsel of the Personal Injury Track (2004-2008) in the massive *Bridgestone/ Firestone Tires Products Liability MDL*, which dealt with defects in Ford Explorer SUVs and Bridgestone/Firestone tires and was overseen by Judge Sarah Barker in the Southern District of Indiana. Eidson led the plaintiffs' team and coordinated liability discovery (domestically and abroad) for all personal injury and wrongful death cases and the related class action. In many ways, this MDL set precedents for and provided a role model for a number of automotive product liability MDL's that have followed.

In addition, two of the most analogous recent automotive product liability MDL's in the country have been the *Toyota Unintended Acceleration MDL* before Judge James Selna in the Central District of California and the *Takata Airbags MDL* in the Southern District of Florida. Eidson was appointed to the PSC of the Toyota Unintended Acceleration MDL and one of his CHE partners was appointed as one of the Co-Leads in the Takata Air Bags MDL.

Both CHE and Eidson also have substantial experience in the class action field more generally (outside of the automotive realm), having served as lead counsel, co-lead counsel or PSC members in a wide range of consumer, product liability and financial misconduct class actions, ranging from the *BP Oil Spill MDL* and *Chinese-Manufactured Drywall MDL* in

Louisiana to financial class actions against U.S. Sugar Corp. (ERISA class action) and Premium Sales (Ponzi scheme) in Florida. CHE has also been trusted by federal judges with the responsibility of serving as court-appointed receivers in important cases, including most notably the massive Mutual Benefits Corporation Ponzi-scheme in the Southern District of Florida.

What Eidson truly prides himself on though – and what he would particularly bring to the plaintiffs’ table in this case – is his extensive experience in the field of automotive products liability. Eidson has been handling complex automotive litigation for his entire career, beginning with one of the first cases against Ford involving exploding fuel tanks in the Pinto in the 1970’s to cases against Honda and Takata involving exploding airbags today. Eidson has handled litigation against Volkswagen, and its divisions Porsche and Audi, in the past as well. Eidson also has a long relationship with the Center for Auto Safety (CAS), a Washington, D.C.-based organization that advocates on behalf of motor vehicle consumers on matters involving both automotive safety and fuel economy and emissions.

In addition, in light of the fact that Volkswagen has hired attorney Kenneth R. Feinberg to design and administer an independent claims resolution program, it is worth adding that CHE has experience in the issues that can arise in an MDL where a parallel claims process has been established by Mr. Feinberg (such as the BP Oil Spill MDL, where CHE is on the PSC) and experience presenting claims for clients to Mr. Feinberg, both in the BP Oil Spill MDL and in the September 11<sup>th</sup> Victim Compensation Fund, which Eidson and other officers of ATLA helped to create and before which Eidson represented a number of claimants *pro bono*.

**(2) Judges Before Whom the Applicant Has Appeared:** The two most logical judges to contact would be: **Judge Federico A. Moreno** (Tel: 305-523-5110), former Chief Judge of the Southern District of Florida, who is familiar with the quality and caliber of CHE’s and Eidson’s work generally and who recently appointed one of the firm’s partners as a Co-Lead Counsel in the ongoing *Takata Airbag MDL*; and (2) **Judge Sarah Barker** (tel: 317-229-3600), former Chief Judge of the Southern District of Indiana, who appointed Eidson as Co-Lead and later Lead Counsel of the massive *Bridgestone/ Firestone MDL*.

**(3) Willingness and Ability to Commit to this Time-Consuming Litigation:** Eidson is ready, willing and able to immediately commit to this time-consuming litigation. The two most analogous (and busy) auto product liability MDL’s in the country at the moment are the GM Ignition Switch MDL in the SDNY and the Takata Airbags MDL in the SDFL. Eidson is not involved in the former, and his partner is one of the Lead Counsel in the latter. And, Eidson’s work as a PSC member in the Toyota Sudden Unintended Acceleration MDL in California has recently concluded. Having leadership roles in a number of simultaneously pending MDL’s is a significant professional accomplishment, but can also spread a lawyer too thin. Eidson is well-positioned at this particular time to jump into a leadership role here, give this case his undivided personal attention, and move expeditiously.

**(4) Willingness and Ability to Work with Other Counsel:** Eidson is willing and able to work cooperatively with other plaintiffs' counsel and defense counsel. As former President and an officer for 5 years of ATLA (now the American Association for Justice), Eidson has developed a reputation in the plaintiffs' trial bar for being an honest, collegial, reasonable, collaborative and creative lawyer. We have also provided the attached list of firms that support Eidson; we have worked with many of them before and will undoubtedly do so again. The list was not an effort to tally a large number of supporters, but an effort to assemble a list of geographically diverse firms with strong reputations in this field, as well as leading California lawyers with excellent reputations in this District who would likewise make very strong Lead Counsel.

**(5) Resources to Prosecute this Litigation in a Timely Manner:** CHE has the financial and human resources to help the plaintiffs' team prosecute this case in a thorough and timely manner. The best indication of that is that CHE has done it before. As for financial resources, CHE has held leadership positions in some of the largest and most costly MDL's to prosecute in recent years, such as the *Toyota Unintended Acceleration MDL*, the *BP Oil Spill MDL*, and the *Chinese-Manufactured Drywall MDL*. As for human resources, CHE has a deep bench of talented trial lawyers, ranging from Roberto Martinez (a former U.S. Attorney whose experience in governmental investigations will be useful given the governmental role here) to Dean Colson (a current member of the Standing Committee on Rules of Practice and Procedure appointed by the Chief Justice) to Ervin Gonzalez (a nationally known trial lawyer). CHE also has the horse power to carry its share of the heavy lifting of document review and myriad other litigation tasks that will come plaintiffs' way.

**(6&7) Position Sought and Category of Plaintiffs:** Eidson seeks appointment as one of the Lead Counsel or, in the alternative, as a member of the PSC. Eidson seeks to represent consumer plaintiffs – that is, vehicle owners and lessees).

**(8) Other Considerations:** This is a national (indeed, international) case of important public interest. We hope that leadership roles will be filled by some of the talented and experienced California lawyers involved in this case (and whose applications we support). Given that this is a case of national significance though, a representative geographic diversity in the plaintiffs' leadership is also a relevant consideration. CHE is a Florida firm (with offices in Washington, D.C. and New Orleans).

We very much appreciate the Court's consideration of CHE's application.

Respectfully submitted,

COLSON HICKS EIDSON

*s/ Mike Eidson*

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**LEWIS S. "MIKE" EIDSON, JR.  
COLSON HICKS EIDSON**

**Curriculum Vitae**

Mike Eidson is the President of Colson Hicks Eidson ("CHE"), a law firm established in Miami, Florida in 1967 dedicated to trial practice. In 2006, Mr. Eidson was elected and served as President of the American Association for Justice (AAJ), formerly the Association of Trial Lawyers of America (ATLA). AAJ has 30,000 attorney members located across the United States and in other countries. Mr. Eidson co-founded and chaired (1991-93) the Institute for Injury Reduction, a national organization dedicated to improving auto safety. Mr. Eidson has lectured more than 100 times at Florida Bar, American Bar Association, numerous state trial lawyers associations, Academy of Florida Trial Lawyers, and ATLA seminars. He also authored a widely distributed textbook on the handling of automotive product liability cases. Mr. Eidson has handled to conclusion hundreds of complex tort cases including more than 120 jury trials in Florida and other states in his career. What follows is a sampling most relevant to the *Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*:

**Bridgestone/ Firestone MDL**

From 2000 to 2004, Mr. Eidson served as Plaintiffs' National Lead Co-Counsel, and from 2004 through 2008, as Lead Counsel of the Personal Injury Track, in this MDL before Judge Sarah Barker in Indianapolis, Indiana, which involved accidents of Ford Explorers following Firestone tire tread separations. Mr. Eidson represented over 125 individuals either injured or killed in accidents as the result of failed Firestone tires and Ford Explorers and other vehicles in rollover cases. This MDL consisted of more than 1,000 personal injury/wrongful death cases and more than 100 class action economic loss cases consolidated for core discovery, development of expert witnesses and other related matters and involved coordinating with similar cases in state courts.

**Toyota Sudden Unintended Acceleration MDL**

From May 2010 to the present, Mr. Eidson has served as one of the members of the Plaintiffs' Liaison Committee for Personal Injury/Wrongful Death Cases, in the Toyota Sudden Unintended Acceleration (SUA) MDL, before Judge James V. Selna in Santa Ana, California, which involved allegations of incidents of sudden unintended acceleration in a range of Toyota vehicles caused by sticky accelerator pedals, floor mat entrapment of pedals, and defective design of the electronic throttle control system. Like the Takata Air Bags Products Liability Litigation, the Toyota SUA MDL involved both a class action based on economic loss damages and individual personal injury and wrongful death actions in federal and state court.

**Other Recent Class Action and Mass Tort Cases:**

**Nissan 350Z Class Action** (California): Economic damages class action against Nissan involving allegations of defective tires in the 350Z. CHE served as co-lead counsel to the class.



**U.S. States Sugar Corporation Litigation** (S.D.Fla.): Class action based on ERISA and other claims arising out of valuation of shares held by employees of U.S. Sugar Corporation. CHE served as lead counsel to the class.

**SEC v. Mutual Benefits Corporation** (S.D.Fla.): CHE partner Roberto Martinez was the appointed receiver for Mutual Benefits Corporation, in connection with the SEC's prosecution of one of the largest Ponzi-type schemes in Florida history.

**Chinese-Manufactured Drywall MDL** (E.D.La.): CHE partner Ervin Gonzalez is serving on the PSC and Executive Committee in this MDL involving economic damages claims against manufacturers of defective drywall.

**Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010** (E.D.La.): CHE partner Ervin Gonzalez is serving on the Plaintiffs' Steering Committee in this MDL involving all private claims arising out of the BP Oil Spill in the Gulf of Mexico.

#### **Individual Product Liability Actions:**

Over the past 40 years, Mr. Eidson has handled and tried dozens of individual product liability actions against automobile manufacturers, airplane manufacturers, component suppliers, and consumer product manufacturers. Back in 1975, with his partners, he tried the first Ford Pinto fuel system case in the country. Since then, he has been involved in one way or another – whether as a litigator or as an advocate – in most major safety developments in the automotive field. Mr. Eidson has worked with the Center for Auto Safety, Public Citizen and other organizations devoted to issues of cleaner auto emissions and automotive safety for over 40 years.

Education: Emory University Law School, J.D. (1971)  
University of South Carolina, B.S. (1968)

#### **Professional Associations:**

American Association for Justice (f/k/a ATLA) – President (2006 – 2007)  
Dade County Trial Lawyers Association – Past President  
Academy of Florida Trial Lawyers – Board of Directors  
Attorneys Information Exchange Group – Board of Directors  
Trial Lawyers for Public Justice – Board of Directors  
International Academy of Trial Lawyers  
American College of Trial Lawyers

#### **Awards and Recognition:**

Mr. Eidson has received dozens of awards for his work in auto and product safety and for contributions to the performing arts, urban planning and other cultural and civic matters. Mr. Eidson has been recognized annually as one of the leading attorneys in his field of practice by publications and organizations that recognize and rate lawyers.